DOCKET NO. NNI-CV24-5017007S	:	**SUPERIOR COURT**
PALMETTO SURETY CORPORATION	:	**J.D. OF NEW HAVEN**
VS.	:	**AT MERIDEN**
WILLIAM J. SOBOTA, ET AL	:	**JUNE 12, 2024**

MEMORANDUM OF DECISION RE:
ANNA CURRY'S MOTION TO INTERVENE

Introduction.

The applicant, Palmetto Surety Corporation ("Palmetto"), seeks a prejudgment remedy attachment of the assets of the respondents, William J. Sobota, 24/7 Bailbonds, LLC and Sobota Enterprises, LLC (collectively "Sobota") to secure a probable judgment which Palmetto expects to obtain against Sobota. The movant, Anna Curry, is the plaintiff in an unrelated matter against Palmetto, William J. Sobota and 24/7 Bailbonds, LLC now pending in the United States District Court for the District of Connecticut, Civil Action No. 3:21-CV-00221 (SRU). She now moves, pursuant to Conn. Gen. Stat. §§52-102 and 52-107 and Practice Book §9-18, to intervene in this proceeding, claiming that she has a "direct and substantial interest in the subject of this litigation", having been granted partial summary judgment in her case and awaiting a hearing in damages. Her express concern is that with the value of her claim yet to be decided and if not permitted to intervene in this proceeding, she will lose to Palmetto, the applicant in this case, the ability to attach sufficient assets of Sobota to secure a probable judgment in her case. The applicant objects,

6-12-2024: JDNO Sent to all Appearing Counsel. S.Hennick, A.C.

108.2

arguing that the movant having failed to submit with her motion a proposed writ, summons and complaint, the court is unable to determine "whether she has asserted a well-pleaded . . . claim"; that the movant has failed to demonstrate that she has a substantial interest in the subject matter of this proceeding as would warrant her intervention in it as of right; and that she has failed to demonstrate that she has "a direct, substantial, or legally protectable interest in this controversy" that the court should permit her to intervene in it.

Discussion.

As noted above, the movant cites Conn. Gen. Stat. §§52-102 and 52-107 as the statutory authority for her motion.[1]

I.

Conn. Gen. Stat. §52-102 provides:

> Upon motion made by any party or nonparty to a civil action, the person named in the party's motion or the nonparty so moving, as the case may be, (1) may be made a party by the court if that person has or claims an interest in the controversy, or any part thereof, adverse to the plaintiff, or (2) shall be made a party by the court if that person is necessary for a complete determination or settlement of any question involved therein; provided no person who is immune from liability shall be made a defendant in the controversy.

[1] Practice Book §9-18 tracks the language of Conn. Gen. Stat. §52-107.

Thus, the threshold question posed by Conn. Gen. Stat. §52-102 is whether this proceeding is a "civil action." The courts have answered that question with a resounding "no."

An application for prejudgment remedy is "something that precedes, and, therefore, is not the equivalent of, the commencement of a civil action." See, e.g., *Cahaly* v. *Benistar Property Exchange Trust Co.*, 268 Conn. 264, 272–73, 842 A.2d 1113 (2004) (under clear language of § 52–278c[b], application for prejudgment remedy is not stand-alone pleading); *E.J. Hansen Elevator, Inc.* v. *Stoll*, 167 Conn. 623, 628, 356 A.2d 893 (1975) (prejudgment remedy auxiliary to cause of action alleged); *Howard* v. *Robertson*, supra, 27 Conn.App. at 626–27, 608 A.2d 711; see also 2 E. Stephenson, Connecticut Civil Procedure (3d Ed.2002) § 104, p. 2 ("[p]rejudgment remedies are ancillary to the main action for damages and cannot exist without such action"). *Bernhard-Thomas Bldg. Sys., LLC* v. *Dunican*, supra at 75. "It is well settled that a civil action is brought on the date on which the writ of summons is served on the defendant.... *An application for a prejudgment remedy, which is not equivalent to a writ of summons and complaint, does not commence an action.*" (Citations omitted; emphasis added; internal quotation marks omitted.) Id., at 729–30, 805 A.2d 713; see also *Hillman* v. *Greenwich*, 217 Conn. 520, 524–25, 587 A.2d 99 (1991) (noting importance of signed writ of summons to commence civil action). *Bernhard-Thomas Bldg. Sys., LLC* v. *Dunican*, supra at 74–75.

The process for seeking a prejudgment remedy is prescribed by Conn. Gen. Stat. §§52-578a, et seq. It is precise and mandatory:

> (a) Except as provided in sections 52-278e and 52-278f, any person desiring to secure a prejudgment remedy shall attach his proposed unsigned writ, summons and complaint to the following documents:
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> (1) An application, directed to the Superior Court to which the action is made returnable, for the prejudgment remedy requested;
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> (2) An affidavit sworn to by the plaintiff or any competent affiant to show that there is probable cause that a judgment in the amount of the prejudgment remedy sought, or in an amount greater than the amount of the prejudgment remedy sought, taking into account any known defenses, counterclaims or set-offs, will be rendered in the matter in favor of the plaintiff;
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> (3) A form of order that a hearing be held before the court or a judge thereof to determine whether or not the prejudgment remedy requested should be granted and that notice of such hearing complying with subsection (e) of this section be given to the defendant;
>
> (4) A form of summons directed to a proper officer commanding him to serve upon the defendant at least four days prior to the date of the hearing, pursuant to the law pertaining to the manner of service of civil process, the application, a true and attested copy of the writ, summons and complaint, such affidavit and the order and notice of hearing;
>
> (b) The application, order and summons shall be substantially in the form following:
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> * * *

It is an expressly inflexible process:

> Notwithstanding any provision of the general statutes to the contrary, *no prejudgment remedy shall be available to a person in any action at law or equity (1) unless he has complied with the provisions of sections 52-278a to 52-278g, inclusive,* except an action upon a commercial transaction wherein the defendant has executed a waiver as provided

> in section 52-278f, or (2) for the garnishment of earnings as defined in subdivision (5) of section 52-350a.

(emphasis added).

Needless to say, Ms. Curry's motion to intervene does not satisfy the procedural requirements of Conn. Gen. Stat. §§52-278a, et seq. Her failure to attach to her motion a proposed unsigned writ, summons and complaint is the least of her motion's shortcomings.

Even if, arguendo, Conn. Gen. Stat. §52-102 were a proper avenue through which Ms. Curry could seek to be made a party to this proceeding, she has failed to demonstrate that she is a person with an interest in the controversy described in Palmetto's proposed unsigned complaint, or any part thereof, that is adverse to Palmetto's or that she is necessary for a complete determination or settlement of any question involved in that inchoate case. Her only interest is in obtaining security for her probable judgment against Sobota. A motion to intervene, pursuant to Conn. Gen. Stat. §52-102, in Palmetto's application for prejudgment remedy is not the proper way to go about doing that.

II.

Conn. Gen. Stat §52-107 provides:

> The court may determine the controversy as between the parties before it, if it can do so without prejudice to the rights of others; but, if a complete determination cannot be had without the presence of other parties, the court may direct that such other parties be brought in. If a person not a party has an interest or title which the judgment will affect, the court, on his application, shall direct him to be made a party.

At issue in Palmetto's application for prejudgment remedy, as in every application for prejudgment remedy, is:

> (1) whether or not there is probable cause that a judgment in the amount of the prejudgment remedy sought, or in an amount greater than the amount of the prejudgment remedy sought, taking into account any defenses, counterclaims or set-offs, will be rendered in the matter in favor of the plaintiff, (2) whether payment of any judgment that may be rendered against the defendant is adequately secured by insurance, (3) whether the property sought to be subjected to the prejudgment remedy is exempt from execution, and (4) if the court finds that the application for the prejudgment remedy should be granted, whether the plaintiff should be required to post a bond to secure the defendant against damages that may result from the prejudgment remedy or whether the defendant should be allowed to substitute a bond for the prejudgment remedy.

Conn. Gen. Stat. Ann. § 52-278d. That Ms. Curry, too, in an unrelated case, is likely to obtain a monetary judgment against Sobota has no bearing on any of these issues.[2] Thus, a complete determination of these issues can, indeed, be had without her presence. The question remains, however, as to whether, having obtained summary judgment on liability against Sobota in her case

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[2] Much was made at oral argument about whether Ms. Curry's interest in this proceeding is contingent upon the outcome of the trial to determine the amount of damages to be awarded to her in that case. It is not, just as a prejudgment remedy, by its very nature, does not require the applicant to have first obtained a judgment for a sum certain. The issue here in not whether Ms. Curry's claim is contingent upon the outcome of her case but, rather, whether a complete determination of this proceeding to determine whether there is probable cause to believe that a judgment will be rendered in Palmetto's favor against Sobota and, if so, for how much, cannot be had without Ms. Curry's involvement or whether she has "an interest or title" which the judgment in the case which Palmetto is about to commence against Sobota will affect.

and given the likelihood that she will be awarded money damages she is "a person not a party [who] has an interest . . . which the judgment will affect." The answer to that question lies primarily in the rule of statutory construction that the legislature is presumed to have created a consistent and harmonious body of law. cf. *State of Connecticut* v. *Courchesne*, 296 Conn. 622, 709, 998 A.2d 1 (2010). In other words, if a person not a party to an application for prejudgment remedy may not intervene under Conn. Gen. Stat. §52-102 because an application for prejudgment remedy is not a "civil action", the word "controversy", as it appears in Conn. Gen. Stat. §52-107, must be construed as being synonymous with "civil action", and "judgment" construed as a judgment to be rendered in a civil action. Furthermore, the prejudgment remedy statute, Conn. Gen. Stat. Ann. § 52-278d, clearly distinguishes between a judgment that is likely to be rendered in a civil action and the prejudgment remedy which a court may grant, prior to the commencement of that civil action, to secure that probable judgment.

Conclusion.

For the foregoing reasons, Ann Curry's motion to intervene is hereby DENIED.

Honorable Steven D. Jacobs